

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
WESTERN DIVISION

William D. Taylor,

Case No. 3:00CV7464

Plaintiff

-v-

ORDER

Norfolk & Southern Rwy Co.,

Defendant

This is an FELA case in which the defendant has filed a motion for summary judgment. (Doc. 21). For the reasons that follow, the motion shall be overruled.

Plaintiff fell on “black ice” on a paved walkway covered with snow following a light snowfall that concealed the ice on which the plaintiff slipped. Though recently paved, and then repaved after water would be seen to collect in various areas, the walkway, a jury could find, was known to the defendant still to have had some uneven areas..

A jury could also find that the defendant was on notice that any such standing water might freeze and create a dangerous condition.

It appears from the record that rain had fallen three days before the accident and thereafter the temperature had been near freezing or below continuously until the time of plaintiff’s accident. In light of

that evidence, a jury could find that the defendant, in light of its awareness of the possible occurrence of standing water and the freezing conditions since the rainfall, was on notice of the risk encountered by the plaintiff, but failed to take reasonable remedial steps, such as salting. Summary judgment, accordingly, is not appropriate.

It is, therefore,

ORDERED THAT defendant's motion for summary judgment be, and the same hereby is overruled.

The Clerk shall forthwith arrange for a telephone scheduling conference to set a date for trial.

So ordered.

S/ James G. Carr
James G. Carr
United States District Judge

**** A telephone scheduling conference is set for May 7, 2001 at 3:00 p.m.****